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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/576,094	05/22/2000	Miles A. Galin	A31632-A	2498
21003	7590	08/01/2003		
BAKER & BOTT'S 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER CHATTOPADHYAY, URMI	
			ART UNIT 3738	PAPER NUMBER
DATE MAILED: 08/01/2003				

15

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	Application No.	Applicant(s)
	09/576,094	GALIN, MILES A.
	Examiner	Art Unit
	Urmi Chattopadhyay	3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 02 May 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 and 6-11 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 6-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 May 2000 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>11,14</u> .	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### *Response to Amendment*

1. The amendment filed 5/2/03 has been entered as Paper No. 13. Claims 5 and 12 have been canceled and claim 1 has been amended. The claims pending are 1 and 6-11.

### *Information Disclosure Statement*

2. The information disclosure statement filed 5/22/00 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The references by Colin et al. and Baikoff et al. have not been considered because copies were not provided.

### *Claim Objections*

3. Claim 1 objected to because of the following informalities: in line 2, "eve" should be changed to --eye--; amended claim 1 still does not accurately claim what is disclosed in the specification. Examiner suggests rewording lines 7-9 from "two haptics arranged in an "S" configuration having a four point attachment and each haptic having an intermediate beam length" to --two haptics having a four point attachment and each haptic arranged in an "S" configuration having an intermediate beam length--. Appropriate correction is required.

✓

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann et al. (USPN 6,228,115 as cited in last office action) in view of Kelman (USPN 4,871,363 as cited in applicant's IDS) and Sourdille et al. (WO 97/41805; line references are based on USPN 6,179,870, which is based on WO 97/41805).

Hoffmann et al. discloses an intraocular lens with all the limitations of claim 1, but is silent to the haptics having a four point attachment and each haptic arranged in an "S" configuration having an intermediate beam length of approximately 5.25mm and a thickness between 0.25-0.35mm at the point of attachment to the lens. See Figure 1 for positive power (column 6, lines 47-48) anterior chamber ocular implant for placement in the anterior chamber of a phakic eye (column 3, lines 45-48). See column 6, lines 49-50 for lens having at least one convex surface and Figure 2 for means for positioning (32) the lens (28) in the anterior chamber of the eye, wherein contact between the artificial lens and other anatomic bodies is avoided (columns 2-3, lines 64-3).

Examiner contends that the lens of Hoffmann et al. can be used with several types of haptic arrangements that are well known in the art without destroying the ability of the lens to be used as a positive refracting power anterior chamber ocular implant. For example, Kelman teaches a corrective anterior chamber intraocular lens for use in a phakic eye with "S" configured

haptics with four point attachments in order to engage adjacent portions of the eye tissue for stable fixation when inserted for implantation. See Figure 4 and column 7, lines 3-10. This arrangement of haptics also allows for the eye incision to be minimized to the diameter of the lens body and for snaking in the leading haptic to minimize the risk of contact with the natural lens by the IOL during implantation. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the positive refractive lens of Hoffmann et al., especially when made of a rigid material, with the "S" shaped haptics with four point attachments of Kelman. Because the intermediate beam length of Kelman is dependent on the diameter of the optic, when combined with an optic of Hoffmann et al. that has a diameter of about 4.5mm (column 5, lines 1-4), the intermediate beam length will be *approximately* 5.25mm. The word *approximately* broadens the scope of the claim, and since the specification does not define the metes and bounds of "approximately 5.25mm", Examiner is broadly interpreting it.

Sourdille teaches an IOL wherein the thickness between the haptic and the lens is 0.35mm and increases to 0.45mm at the free end of the haptic in order to, in combination with a decreasing haptic width, avoid a localized bending of the haptics at the level of connection to the optic. See column 2, lines 50-52 and column 4, lines 57-63. It would have been obvious to one of ordinary skill in the art to look to the teachings of Sourdille et al. to modify the haptics of Kelman so that the point of attachment to the lens has a thickness of 0.35mm, as well as an increasing thickness to the free end decreasing width, in order to avoid a localized bending of the haptics at the level of connection to the optic. This, in turn, will avoid harmful axial displacement of the optic.

Claim 8, see (Hoffmann et al.) column 6, lines 5-39 for artificial lens material.

Claims 9 and 10, see (Hoffmann et al.) column 6, lines 40-46 for refracting lens being foldable or rigid.

Claim 11, see (Hoffmann et al.) any one of Figures 3-8, 9 and 10 for the means for positioning comprising two haptics (32) normal to the peripheral edge of the positive artificial refracting lens.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann et al. and Kelman and Sourdille et al. as applied to claim 1 above, and further in view of Li et al. (USPN 6,132,462 as cited in previous office action).

Hoffmann et al., as modified by Kelman and Sourdille et al., discloses an intraocular lens with all the limitations of claim 1, but is silent to the additional limitation of the implant being coated with a specific sulfated polysaccharide medicament, as required by claims 6 and 7. Li et al. teaches a copolymer intraocular lens coated with heparin in order to raise biocompatibility and prevent deposition of cells. See column 6, lines 19-29. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to look to the teachings of Li et al. to modify the intraocular lens of Hoffmann et al., as modified by Kelman and Sourdille et al., by including the specific coating in order to raise biocompatibility and prevent deposition of cells.

#### *Response to Arguments*

7. Applicant's arguments with respect to claims 1 and 6-11 have been considered but are moot in view of the new ground(s) of rejection.

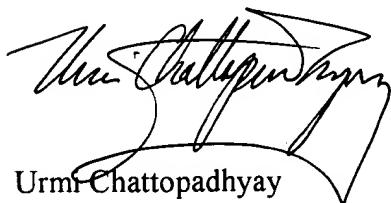
*Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Urmie Chattopadhyay whose telephone number is (703) 308-8510 and whose work schedule is Monday-Friday, 9:00am – 6:30pm with every other Friday off. The examiner's supervisor, Corrine McDermott, may be reached at (703) 308-2111. The group receptionist may be reached at (703) 308-0858.

Should the applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 305-3590. Should applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



Urmie Chattopadhyay

Art Unit 3738



David H. Willse  
Primary Examiner

uc

July 23, 2003